



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/564,115

08/16/2006

Hanspeter Heiniger

187443/US

8873

74307

7590

09/18/2009

Dorsey & Whitney LLP
IP Department, ATTN: Disetronic Licensing AG
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498

EXAMINER

HALL, DEANNA K

ART UNIT

PAPER NUMBER

3767

MAIL DATE

DELIVERY MODE

09/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,115	Applicant(s) HEINIGER ET AL.	
	Examiner DEANNA K. HALL	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>June 14, 2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgments

1. This action addressed the claims of the preliminary amendment of 1/10/06 where claims 1-18 were canceled and new claims 19-36 added.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on June 14, 2007 is in compliance with the provisions of 37 CFR 1.97(b). Accordingly, the IDS is being considered by the Examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 19-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Michel (US 5,244,465).**

Michel discloses a drive device and method comprising: a spring device 3 which advances in the advancing direction on a counter-element and on the advancing element 23 which is movable relative to the counter-element; a tensioning device with a tensioning element 24 for tensioning the spring device, it being possible to set a

Art Unit: 3767

predefined distance 17, 17', 17", 17''' between the counter-element and the advancing element or the tensioning element that engages on the advancing element according to the advance of the advancing element.

The spring device is a helical spring, Fig. 1. The predetermined distance is smaller or greater than the length of the untensioned spring device C3L4-20. The tensioning element 24 is movable relative to the housing 17 and the advancing element 23 in the direction of the counter-element, Fig. 2. The tensioning element is moved by a rotary device 5 rotatable relative to the housing 22 with a thread 16, Fig. 2. Michel further discloses a striker 7 and a pusher element, Fig. 1, the actuating element 6 protrudes from the housing. A locking device 9 locks the advancing element relative to the housing. The rotary element 5 is fixed parallel to the advancing direction, the tensioning element 17 is moved in the advancing direction relative to the advancing element C3L4-20.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 32-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear which limitations are claimed in claim 32 due to the phrase "a drive device as claimed in one of claims 19 through 31", thus, claim

Art Unit: 3767

32, along with claims 33-36 are rejected due to their direct or indirect dependence on claim 32.

Claim Objections

7. Claims 32-36 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim, claim 32 is unclear. See MPEP § 608.01(n). Accordingly, the claims are not been further treated on the merits.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEANNA K. HALL whose telephone number is (571)272-2819. The examiner can normally be reached on M-F 9:00am-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3767

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Deanna K. Hall/

Examiner, Art Unit 3767

9/16/09

/Kevin C. Sirmons/

Supervisory Patent Examiner, Art Unit 3767